

Remarks/Arguments:

Claims 1-18, 27 and 28 are pending. Claims 1-18 and 27 stand rejected and claim 28 is withdrawn from consideration by the Examiner. In this response, applicants have amended claims 1, 2, 4, 6, 13 and 27. Applicants have added claims 34 and 35. Applicants respectfully request that the claims be reconsidered.

Applicants wish to thank the Examiner and her supervisor for the courtesy extended to applicants' representative during the telephone interview of September 27, 2007. Applicants disagree, however, with the commentary included in the Examiner's Interview Summary intimating that applicants agreed with the Office's position that the Cosmetto device could be used as claimed by applicants. Accordingly, applicants disagree that an agreement was reached with respect to the claims other than to the extent that agreement was reached between the Examiner and applicants representative that there are additional structural differences between Cosmetto and applicants' invention that would overcome the present rejections.

Rejections to the Specification

The Office Action sets forth at page 2, paragraph 2, that the Abstract is objected to. Applicants have appropriately amended the Abstract and respectfully request, therefore, that the objection be withdrawn.

Rejections Under 35 U.S.C. § 112

The Office Action sets forth at page 2, paragraph 3, that claims 2, 6, and 12 are rejected under 35 U.S.C. § 112, second paragraph. Applicants have appropriately amended claims 2, 6, and 12 and respectfully request, therefore, that the rejection of these claims under 35 U.S.C. § 112, second paragraph, be withdrawn.

Rejections Under 35 U.S.C. § 101

The Office Action sets forth at page 3, paragraph 4, "Claims 2 and 6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter." Applicants respectfully submit that the amendments to claims 2 and 6 obviate this rejection. Applicants respectfully request, therefore, that the rejection be withdrawn.

Rejections Under 35 U.S.C. § 102

The Office Action sets forth at page 4, paragraph 5, "Claims 1-7, 16-18, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Cosmetto et al. (5,127,412)." Applicants respectfully submit that this rejection is overcome by the amendments to the claims for the reasons set forth below.

Applicants' invention, as recited in claim 1, includes features not disclosed or suggested by Cosmetto, namely:

...an external member having i) a tubular shape with closed circumferential ends, ii) at least one aperture extending radially through a first wall to and through a second wall of said external member, and iii) an aperture extending longitudinally from a first end to a second end of the external member...
(Emphasis added)

These features are described in applicants' specification, for example, at page 5, line 15 through page 6, line 3.

Applicants' invention is a device for aiding in the closure of a wound from within the wound. The device includes an external body having a tubular shape in which an internal member is rotatably coupled. The external member has closed circumferential ends and at least one aperture extending through from one wall of the external member to the opposite wall of the external member. In addition, the internal member has at least one receiver for receiving at least one suture which passes from one side of the wound into one wall of the external member and through the internal member finally passing through the opposing wall of the external member and then to the other side of the wound. The device is then used to draw the wound closed by rotating the internal member within the external member.

Cosmetto is relied upon as "[disclosing] a device for aiding in the closure of a wound...comprising an external member (body 30) having spaced apart apertures (35), an internal member (shaft 40) rotatably coupled to the external member (30) having spaced apart receivers (apertures 41) in line with the apertures of the external member (body 30), a suture (15) passed through the receivers (41)...wherein the device is capable (emphasis added) of being placed within a wound of a human or animal if one desires to do so." Applicants respectfully disagree with this overly broad interpretation of the Cosmetto reference, especially that the placement of the Cosmetto device within the wound would function as required.

Nonetheless, in an effort to expedite prosecution, applicants have amended claim 1 to recite additional structural differences between the Cosmetto device and applicants' claimed invention. Specifically, Cosmetto fails to disclose or suggest that the external member (relied on by the Office as body 30) has a tubular shape with closed circumferential ends. Rather, Cosmetto discloses that the external member (body 30) is cup-shaped with open ends such that internal member (shaft 40) may easily become disengaged from the external member while in use as suggested by the Office. Applicants additionally note that the Cosmetto device is designed for external use and specifically cautions against the use of the device within the wound. See for example column 3, lines 43-45 and column 4, lines 50-56.

In contrast, applicants' invention, as recited in claim 1, requires an external member having i) a tubular shape with closed circumferential ends, ii) at least one aperture extending radially through a first wall to and through a second wall of the external member, and iii) an aperture extending longitudinally from a first end to a second end of the external member, and an internal member rotatably coupled to the external member, the external member having at least one receiver for receiving the at least one suture such that the device is adapted for placement within the wound.

It is because applicants have included the features of an external member having i) a tubular shape with closed circumferential ends, ii) at least one aperture extending radially through a first wall to and through a second wall of the external member, and iii) an aperture extending longitudinally from a first end to a second end of the external member, and an internal member rotatably coupled to the external member, the external member having at least one receiver for receiving the at least one suture such that the device is adapted for placement within the wound, that applicants are able to provide a device for aiding in the closure of a wound from within the wound by drawing the extremities of the wound toward one another under tension of sutures that pass through the device placed in the wound. Cosmetto fails to achieve this advantage because Cosmetto does not include an external member having i) a tubular shape with closed circumferential ends, ii) at least one aperture extending radially through a first wall to and through a second wall of the external member, and iii) an aperture extending longitudinally from a first end to a second end of the external member, and an internal member rotatably coupled to the external member, the external member having at least one receiver for receiving the at least one suture such that the device is adapted for placement within the wound.

Because Cosmetto fails to disclose each and every feature of applicants' claimed invention, applicants respectfully request that the rejection of claim 1 as being anticipated by Cosmetto be withdrawn and the claim allowed.

Claims 2-3 depend upon claim 1 and, thus, are likewise not subject to rejection for at least the reasons set forth above with respect to claim 1.

Although not identical, claim 4 recites features similar to those of claim 1 and, thus, is likewise not subject to rejection for at least the reasons set forth above with respect to claim 1.

Claims 5-7 and 16-18 depend upon claim 4 and, thus, are likewise not subject to rejection for at least the reasons set forth above with respect to claim 4.

Rejections Under 35 U.S.C. § 103

The Office Action sets forth at page 5, paragraph 4, "Claims 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cosmetto et al."

Although the Office Action readily admits that Cosmetto fails to disclose a coiled spring or a coupling for providing a vacuum for drainage of the wound the Office takes the position that it would have been obvious to one of skill in the art to include these features, yet the Office provides no prior art whatsoever to support these supposedly well-known features.

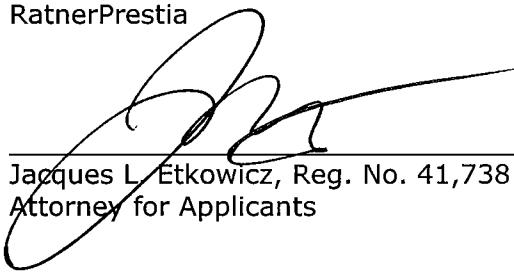
Nonetheless, because amended claim 4, from which claims 8-15 ultimately depend, is allowable over Cosmetto the rejection of claims 8-15 as being unpatentable over Cosmetto is moot. Applicants respectfully request, therefore, that the rejection be withdrawn and the claims allowed.

Applicants have added claims 34 and 35. Basis for these claims may be found in applicants' specification as originally filed. These claims do not add new matter. Applicants' respectfully request therefore that the claims be entered and examined. Regarding the prior art of record, none disclose or suggest either i) means for retaining the internal member within the external member or ii) that the external member is adapted to retain the internal member within the external member. Applicants respectfully submit therefore that claims 34 and 35 are allowable over the prior art of record.

In view of the amendments and remarks set forth above, applicants submit that the above-identified application is in condition for allowance which action is respectfully requested.

Respectfully submitted,

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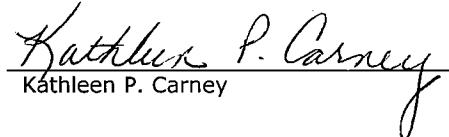
Attachment: Abstract

Dated: November 30, 2007

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I hereby certify that this correspondence is being electronically transmitted to: Commissioner for Patents, Alexandria, Virginia on November 30, 2007.


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